

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
Truth-in-Billing and )  
Billing Format )  
 )  
National Association of State Utility )  
Consumers Advocates' Petition for )  
Declaratory Ruling Regarding Monthly )  
Line Items and Surcharges Imposed )  
by Telecommunications Carriers )

CC Docket No. 04-208

**SUPPORT FOR PETITION FOR DECLARATORY RULING**

**I. INTRODUCTION**

Pursuant to 47 C.F.R. §1.2, Satellite Receivers, Ltd., Cash Depot, Inc., and Mr. David Charles, in his individual right, by undersigned counsel, hereby supports the Petition for Declaratory Ruling filed by National Association of State Utility Consumer Advocates (NASUCA)<sup>1</sup> and urges the Commission to issue a Declaratory Ruling prohibiting telecommunications carriers from imposing monthly line-item charges, surcharges or other fees on customers' bills, unless such charges have been expressly mandated by a regulatory agency. It is obvious that these hidden and unauthorized line-item charges make it difficult for consumers to price compare. Further, permitting such practices encourages carriers to be inefficient and deceptive. The Commission must rule that these hidden fees and surcharges are unjust and unreasonable in violation of Section 201 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (Act).<sup>2</sup>

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<sup>1</sup> *Petition for Declaratory Ruling* of the National Association of State Utility Consumer Advocates, CC Dkt. 98-170 (Mar. 30, 2004).

<sup>2</sup> 47 U.S.C. § 201.

## **II. THE ACT REQUIRES RATES AND CHARGES BE JUST AND REASONABLE**

The Act declares that “[a]ll charges, practices, classifications and regulations for and in connection with communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is . . . declared . . . unlawful.”<sup>3</sup> Section 205 of the Act grants the Commission authority to rule whether charges on telephone bills are “just and reasonable.”<sup>4</sup> It is also manifest that the pro-competitive environment promoted by the 96 Act was intended to rationalize consumer choices. The Commission is both authorized and obligated to find the unauthorized and deceptive practices asserted herein as unlawful and prescribe lawful practices for carriers to follow that are just and reasonable for all consumers.

## **II. TRUTH IN BILLING AND USE ORDERS**

In 1999, the Commission adopted its Truth-in-Billing Order which established a set of principles that are designed to ensure that consumers are provided with the basic information they need to make informed choices in a competitive telecommunications market and that they are protected from unscrupulous competitors.<sup>5</sup> These principles include: “[f]irst, that consumer telephone bills be clearly organized, clearly identify the service provider, and highlight any new providers; [s]econd, that bills contain full and non-misleading descriptions of charges that appear therein; and, [t]hird, that bills contain clear and conspicuous disclosure of any information the consumer may need to make inquiries about, or contest charges, on the bill.”<sup>6</sup> These principles have been severely eroded by an epidemic of carrier-created line-items, surcharges and fees. These line-item charges undermine the purpose of the 96 Act which was designed to give

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<sup>3</sup> 47 U.S.C. § 201(b).

<sup>4</sup> 47 U.S.C. § 205(a)

<sup>5</sup> In the Matter of Truth-in-Billing and Billing Format, *First Report and Order and Further Notice of Proposed Rulemaking*, 14 FCC Rcd. 7492 at para. 5 (1999).

<sup>6</sup> *Id.*

consumers choice in wireless and wireline services. Confronted with these often vague and arbitrary charges, consumers are ill-equipped to make informed decisions on which carrier is the best choice for them. Because of the insertion of these spurious line-item charges it becomes difficult to determine which carriers offer the best prices because carriers can hide the true cost of service by coupling “low-ball” supposed monthly charges with “high-ball” line item surcharges and fees. Further, carriers have incentives to over-recover their costs through such surcharges.

In the Universal Service Fund (“USF”) Contribution Order the Commission prohibited carriers from marking-up USF assessments on end-users above the Commission-authorized assessment factor.<sup>7</sup> The rationale was to “alleviate end-user confusion regarding the universal service line item.”<sup>8</sup> The Commission also ruled that the Order would “foster a more competitive market” and “furthers our [FCC] goal of promoting transparency for the end user in order to facilitate informed customer choice.”<sup>9</sup>

While the Commission made strides to curb carriers from over-charging consumers on the USF assessments, the Commission opened the door for carriers to impose additional line items.

Contributing carriers still will have the flexibility to recover their contribution costs through their end-user rates if they so choose and to recover any administrative or other costs they currently recover in a universal service line-item through their customer rates or *through another line item*.<sup>10</sup>

Thus, with the Commission’s tacit blessing the industry quickly implemented other line-items, and now it is an industry wide practice. The USF Order is the ultimate contradiction, which on

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<sup>7</sup> In the Matter of Federal State Joint Board on Universal Service, *Report and Order and Further Notice of Proposed Rulemaking*, 17 FCC Rcd. 24952 (2002).

<sup>8</sup> *Id.* at para. 50.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at para. 40 (emphasis added).

the one hand promoted consumer rights and recognized transparency in billing and on the other hand created a loophole for carriers to add new line-items not required by law. The net result of the Order is greater confusion and less transparency.

### **III. ARGUMENTS**

Unauthorized carrier added surcharges are specifically designed to increase a carrier's revenues without appearing to raise their monthly rates for services. Most consumers shop among carriers by comparing "stated" monthly charges. Carriers under the current surcharge regime are able to shift costs from the stated monthly service charges to line-item charges and mask the true cost of a carrier's service, which frustrates the process of true price comparison for consumers. This regime is deceptive, misleading and contrary to the public interest.

Certainly carriers should be able to recover their cost of doing business, but they should not be able to deceive consumers by hiding their costs within line-items that are not made known to consumers until they receive their bill. The relief that is being sought by NASUCA is a ruling declaring that carriers are prohibited from imposing on customers any line item charges unless those charges – and their line-item recovery are specifically mandated by federal, state, or local regulatory authority. Carriers should be able to recover contributions to state universal service funds, 911/E911 systems, TRS costs, etc. But, these charges should match the actual assessment imposed by the governmental authority, as is the case with the federal universal service surcharges. Carriers should not be able to recover other, unauthorized costs by means of surcharges, line items or fees. This too is our position, and we therefore support NASUCA.

The Commission has already recognized the importance of billing transparency and it has sought to make sure that consumers are equipped with enough information to make informed decisions. But now the broad principles of the Truth-in-Billing Order and the spirit of the USF

Order are quickly eroding as carriers unscrupulously add surcharge after surcharge and all the while duping consumers who are shopping for the most affordable carrier. The Commission has the obligation and the power under Sections 201 and 205 of the Act to ensure that consumers are receiving “just and reasonable” rates. The current billing regime is not “just and reasonable.” Rather it is deceitful and confusing for all consumers who shop for carriers.

#### **IV. CONCLUSIONS**

The Commission should rule that line-item charges on telecommunication service bills should be prohibited unless they are mandated by a regulatory agency. This petition supports a similar petition filed by NASUCA. These line-item surcharges are deceptive, confusing for consumers, anticompetitive and result in less transparency.

Respectfully submitted,

/s/  
David A. Irwin

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July 7, 2004

**CERTIFICATE OF SERVICE**

I, Denise A. Branson, hereby certify that on this 7<sup>th</sup> day of July 2004, true and correct copies of the foregoing **SUPPORT FOR PETITION FOR DECLARATORY RULING** have been served by first class U.S. Mail, postage prepaid on the following:

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